

**REMARKS**

**THE CLAIM FOR PRIORITY**

The Office Action acknowledges the claim for the priority of United Kingdom Application No. 0226980, but contends that a copy of German Application DE10314694.6 was submitted. This contention was also made in the September 1, 2005 Office Action and a response was presented in the Amendment filed November 16, 2005. The February 14 2006 Office Action makes no mention of that response, but repeats the contention. The contention is again traversed.

As was done in the November 16, 2005 Amendment, copies are attached of the Submission of Priority Document, which identifies the priority document as United Kingdom Application No. 0226980.1, the cover page of that United Kingdom application, which shows that the application was ribboned together, and the receipt postcard, which shows that the priority application was received by the Patent and Trademark Office mail room on July 12, 2004. (It is noted that the Submission of Priority Document erroneously gives the date of the United Kingdom application as "November 19, 2003." This is clearly incorrect on its face, since that date is a day after the filing date of the present United States application.)

Accordingly, it is submitted that the correct priority application was submitted and is within the Patent and Trademark Office. Acknowledgement of its receipt is respectfully requested.

If the Examiner maintains the contention that the correct certified copy was not filed, the courtesy of a reply to this response is respectfully requested.

### **THE REJECTION OF THE CLAIMS**

Claims 1-5, 7-14, and 16-20 remain pending in this application. Claims 1-2, 4-5, 8-11, 13-14, and 17-18 were rejected under 35 U.S.C. §103(a) as being Unpatentable over Ramesh et al., WO 02/37889 A1, in view of Palenius et al., United States Patent Publication No. 2004/0058650 A1. Claims 3 and 12 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ramesh et al. in view of Palenius and Cooper, U.S. Patent Publication No. 2004/0203745 A1. Claims 7, 16, 19, and 20 were rejected under 35 U.S.C. §103(a) as being unpatentable over Ramesh et al. in view of Palenius and Dorsey et al, U.S. Publication No. 2004/0224684 A1.

### **THE OFFICE ACTION DOES NOT COMPLY WITH THE MPEP**

As set forth above, the Office Action rejects the claims on various combinations of references. MPEP §706.02(j) states that when making a rejection under 35 U.S.C. §103, the Examiner should set forth in the Office Action “an explanation of why one of ordinary skill in the art at the time the invention was made would have been motivated to make the proposed modification.” The February 14, 2006 Office Action does not do this, and so does not comply with the MPEP.

The Office introduces each secondary reference with the phrase “(i)n the same field of endeavor”. That two references are within the same field of endeavor does not, in itself, mean that it would be obvious to combine those references. Many references might be within the same field of endeavor, yet be so unrelated that no person of ordinary skill in the art would think to combine them.

Accordingly, the Office Action does not comply with this section of the MPEP, and so the Office Action should be withdrawn.

### **THE CLAIMS ARE NOT OBVIOUS**

*Even if it be assumed that one of ordinary skill in the art at the time the invention was made would have been motivated to combine Palenius with Ramesh, the claimed invention would not have been made obvious.*

### **THE CLAIMED INVENTION**

The claimed invention is directed to a method of and a device for determining a most suitable cell during network acquisition for a cellular communications device, based on a characteristic of signals received from a plurality of cells, the signals from each cell being provided over a band of frequencies.

In exemplary embodiments of the invention, a series of measurements is taken for each frequency of a first frequency band, so as to obtain an average measurement value of the characteristic for each frequency of the first frequency band. The measurements on each frequency are equally spaced in time, with equal time intervals therebetween. During the time intervals between measurements for each frequency of the first frequency band, measurements are taken of the characteristic for each frequency of a second frequency band.

### **THE PRIOR ART REFERENCES**

#### **The Ramesh Reference**

Ramesh et al. discloses a method of and a device for selecting a cell during network acquisition for a cellular communications device, based on a characteristic of signals received from a plurality of cells, the signals from each cell being provided over a band of frequencies.

A series of measurements is taken for each frequency of the first frequency band, so as to obtain an average measurement value of the characteristic for each frequency of the first

frequency band. The measurements on each frequency are equally spaced in time, with equal time intervals therebetween.

### **The Palenius Reference**

Palenius discloses a receiver and method for searching for cells.

### **The Cooper Reference**

Cooper discloses a method and an apparatus for selection and acquisition of a wireless communications system in which a selection is made based on the signal to noise ratio of the received signal

### **The Dorsey Reference**

Dorsey discloses a method for a cellular phone to search for higher priority networks during dual mode operation.

## **ARGUMENT**

The claimed invention pertains to determining a most suitable cell during network acquisition. See claim 1, lines 1 and 2 and claim 10, lines 1 and 2.

The Office Action contends that at paragraphs 0014 and 0033 Palenius teaches during the time intervals between measurements of a characteristic for a first frequency band, taking a series of measurements of the characteristic for each frequency of a second frequency band.

Paragraph 0014 of Palenius reads:

“In dedicated mode, the mobile terminal may support a so-called compressed mode in which it interleaves making measurements of the active communication frequency with making cell search measurements on other

frequencies. The compressed mode in WCDMA is described further in *3rd Generation Partnership Project; Technical Specification Group Radio Access Network; Physical layer-measurements (FDD) (Release 5)*, 3GPP TS 25.215, Version 5.1.0 (September 2002), the disclosure of which is incorporated by reference herein in its entirety as if set forth fully herein.”

Paragraph 0033 of Palenius reads:

“According to still further embodiments of the present invention, a WCDMA mobile terminal that is in a dedicated mode (actively using a traffic channel), may interleave making measurements on a first frequency (active communication frequency) with making cell searches and measurements, on a second frequency. As shown in FIG. 2, after measurements are made on information that is received on a first frequency, the mobile terminal may record information from a second frequency. Cell searches and measurements may then be made on the information received from the second frequency and/or the recorded information. A first stage of cell search for a first synchronization code may be made using the information that is received on the second frequency or using information that is recorded therefrom. The second and third stages of cell search, for a second synchronization code and a third code, may be made using the information that was recorded from the second frequency and used to search for the first stage of cell search. After the information is recorded, the mobile terminal may switch back to the first frequency to continue making measurements and/or perform communication thereon.”

Palenius, thus, relates to a communication system that is actively using a traffic channel - - i.e., in operation - - and that while active searches another frequency. Such a communication system is not performing network acquisition, as in the claimed invention.

Thus, combining Palenius with Ramesh would not lead to the claimed invention.

## CONCLUSION

In view of the foregoing, Applicant submits that claims 1-5, 7-14, and 16-20, all the claims presently pending in the application, are patentably distinct over the prior art of record and are allowable, and that the application is in condition for allowance. Such action would be appreciated.

Should the Examiner find the application to be other than in condition for allowance, the Examiner is requested to contact the undersigned attorney at the local telephone number

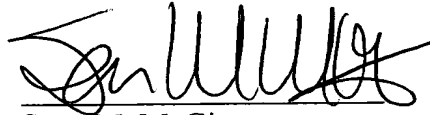
Serial No. 10/714,672  
Docket No.: WN-2622  
GOT.081

listed below to discuss any other changes deemed necessary for allowance in a telephonic or personal interview.

To the extent necessary, Applicant petitions for an extension of time under 37 CFR §1.136. The Commissioner is authorized to charge any deficiency in fees, including extension of time fees, or to credit any overpayment in fees to Attorney's Deposit Account No. 50-0481.

Date: April 4, 2006

Respectfully Submitted,



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